IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE M.H.S. ANSARI

AND
THE HON'BLE SRI JUSTICE T.Ch.SURYA RAO

WRIT PETITION No.3160 of 2005

Between:

Vemula Srinivasa Rao, S/o.Venkataiah
R/o.Sundaraiahnagar, Tadepalli Mandal, Guntur District.

..... PETITIONER

AND

1.The Presiding Officer, Debts Recovery Tribunal, Isnar Khazana Towers, Dwarakanagar, Visakhapatnam.
2.Recovery Officer, Debts Recovery Tribunal, Isnar Khazana Towers, Dwarakanagar, Visakhapatnam.
3.State Bank of India, rep. by its Branch Manager, Kannavarithota Branch, Guntur.
4.M/s. Sri Lakshmi Jute Industries, rep. by its Partner Sri Donthireddy Sambireddy, R/o. Namburu, Pedakakani Mandal, Guntur Dist.
5.Sri Donthireddy Sambi Reddy, S/o.D.Sambireddy,
R/o.Namburu, Pedakakani, Mandal, Guntur District.
6.Sri Donthireddy Srinivasa Reddy, S/o.D.Sambireddy,
R/o.Namburu, Pedakakani, Mandal, Guntur District.
7.Sri Donthireddy Vijaya Madhusudhana Reddy, S/o.D.Sambireddy,
R/o.Namburu, Pedakakani, Mandal, Guntur District.
8.Smt Donthireddy Lakshmikantham, W/o.D.Sambireddy,
R/o.Namburu, Pedakakani, Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring action of the respondents 1 and 2 in proceeding further pursuant to proclamation of sale notice issued in R.P.No.174/203 in O.A.No.858/2002 to conduct the sale on 24.2.2005 in item No.5 specified in the schedule in D.No.132/2 in Tadepalli Village, Guntur District as illegal, arbitrary and violative of Articles 14 and 300A of the Constitution of India.

Counsel for the Petitioner: Mr.A. SREEDHAR

Counsel for Respondent Nos.1 & 2: Mr.A.RAJASEKHAR REDDY

SR.STANDING COUNSEL

FOR CENTRAL GOVT.

(not present)

Counsel for Respondent No.3: Mr. DEEPAK BHATTACHARJEE

(not present)

Counsel for Respondent Nos.4 to 8: None appeared.

The Court at admission stage made the following :

ORAL ORDER: (per Sri Justice M.H.S.Ansari)

Having heard the learned counsel for the petitioner, we are of the view that the jurisdiction of this Court under Article 226 of the Constitution of India has been wrongly invoked without availing of the efficacious alternative remedy under Section 29 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 whereby the provisions of Schedule II of Income Tax Act are made applicable. Under Rule 11(1) thereof, the Recovery Officer is empowered to consider the claim petition or objections with respect to attachment or sale of any property in execution of a certificate. A further appeal against the orders of the Recovery Officer is provided under Section 30 of the said Act. The sale in question is being conducted pursuant to a certificate dated 12-9-2003.

We are, therefore, not inclined to exercise our discretion to entertain the writ petition. The same is dismissed at admission stage. This order, however, shall not preclude the petitioner from availing of such remedies as may be open to him in law and as he may be advised with respect to the claim petition being filed before the Recovery

Officer.

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(M.H.S.ANSARI, J.)

22nd February 2005.

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(T. Ch. SURYA RAO, J.)

ARS

Note: Issue CC today.
To

1.The Presiding Officer, Debts Recovery Tribunal, Isnar Khazana Towers, Dwarakanagar, Visakhapatnam.
2.The Recovery Officer, Debts Recovery Tribunal, Isnar Khazana Towers, Dwarakanagar, Visakhapatnam.
3. The Branch Manager, State Bank of India, Kannavarithota Branch, Guntur.
4. Two CD copies.